

**July 18, 2006**

**SUBJECT:** **2006-0087** – Application on a 6,211 square foot site located at **734 Ashbourne Dr** (near E. Fremont Ave) in an R-0 (Low-Density Residential) Zoning District.

Motion Variance from Sunnyvale Municipal Code section 19.34.040 to allow a six-foot setback where nine feet is required.

**REPORT IN BRIEF**

**Existing Site Conditions** Existing single-story residence

**Surrounding Land Uses**

North Single-Family Residential

South Single-Family Residential

East Single-Family Residential

West Single-Family Residential

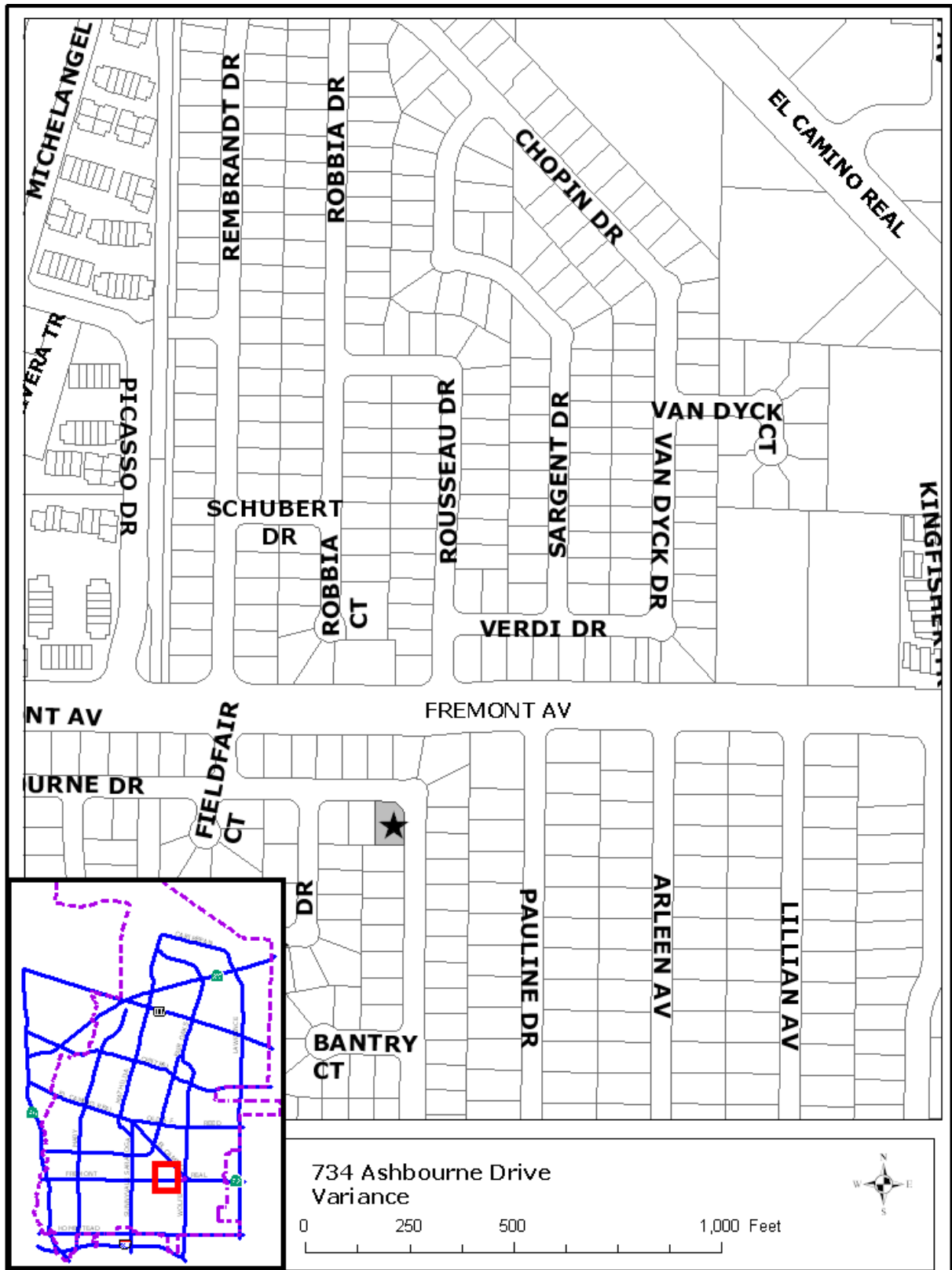
**Issues** Justifications for a variance

**Environmental Status** A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Administrative Hearing Officer's Action** Denied Variance Application

**Planning Commission's Action** Denied the appeal

**Staff Recommendation** Deny the appeal and uphold the decision to deny the Variance



**PROJECT DATA TABLE**

	<b><u>EXISTING</u></b>	<b><u>PROPOSED</u></b>	<b><u>REQUIRED/ PERMITTED</u></b>
<b>General Plan</b>	Residential Low Density	Same	Residential Low Density
<b>Zoning District</b>	R-0	R-0	R-0
<b>Lot Size (s.f.)</b>	6,211	Same	6,000 min.
<b>Lot Width (ft.)</b>	52	Same	57 min.
<b>Gross Floor Area (s.f.)</b>	1,798	2,088	2,795 without public hearing
<b>Lot Coverage (%)</b>	29%	35%	45% max.
<b>No. of Buildings On-Site</b>	1	Same	1
<b>Building Height (ft.)</b>	14'6"	Same	30 feet max.
<b>No. of Stories</b>	1	Same	2 max.
<b>Setbacks (facing prop.)</b>			
• <b>Front (ft.)</b>	20'	Same	20' min.
• <b>Right Side (ft.)</b>	6'	6'	4' min.
• <b>Left Side (ft.)</b>	9'	6' (Total 12')	9' min. (Total 12')
• <b>Rear</b>	20'	10'	10' min.
• <b>Rear Encroachment (%)</b>	0	11.3%	25% max.
<b>Parking</b>			
• <b>Total Covered Parking</b>	1	Same	2 min.
• <b>Total Uncovered Parking</b>	2	Same	2 min.

*Starred items indicate variance from Sunnyvale Municipal Code requirements.*

**ANALYSIS****Description of Proposed Project**

The applicant is proposing an addition of 290 square feet to an existing 1,798 square foot single-story residence. The addition is proposed in the rear and reducible front yard areas, and the house will total 2,088 square feet when completed. The scope of the project includes expansion of one of three bedrooms into a master suite. The proposed home will have three bedrooms, a family room, living room, kitchen, and a two-car garage.

As part of the project, the applicant is requesting that a portion of the new addition be constructed six feet from the property line, where nine feet is the minimum allowed by Sunnyvale Municipal Code (SMC). This street side yard is considered a front yard area and requires a 20-foot setback but is allowed to be reduced under SMC 19.34.040 to a minimum of nine feet. The birch trees in the area of the addition are proposed to be removed as part of this project.

## **Background**

**Previous Actions on the Site:** This application was reviewed at the March 2, 2006 Administrative Hearing and was denied. The applicant appealed the decision to the Planning Commission. The Commission heard the application of April 10, 2006 and continued the item for additional information to the April 24, 2006 meeting, where it was denied 6-0. There are no other planning related permits that have been filed since the residence was built in 1964.

## **Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions. Class 1 Categorical Exemptions include modifications to existing structures.

## **Variance**

**Site Layout:** The existing 6,211 square foot parcel is a rectangular lot with the home situated near the center of the lot. The existing home meets all current setback requirements with a six-foot side yard, 21-foot front yard, 12-foot street side reducible front yard, and a 24-foot rear yard. The proposed addition will extend the structure into the reducible front yard area by six feet. (See Attachment E).

The subject parcel is 66 feet wide and 96 feet deep. The lot width meets standards for the R-0 Zoning district since 62 feet is the minimum required for corner lots in this zone. The lot size also meets current SMC standards since 6,000 square feet is the minimum parcel size in the R-0 Zone. Most of the parcels in the surrounding area are similar with 6,000 square feet as the average size. The subject site does not have an irregular configuration, and no physical constraint exists on site (see the Assessor Parcel Map of the neighborhood in Attachment D). The following table shows the parcel sizes for lots in the immediate vicinity.

	<b>Property Address</b>	<b>Square Footage of Lot</b>	<b>Lot Widths</b>
★	721 Ashbourne	6,120 s.f.	65 ft.
★	724 Ashbourne	7,513 s.f.	78 ft.
	725 Ashbourne	6,550 s.f.	65 ft.
	727 Ashbourne	6,050 s.f.	60 ft.
	729 Ashbourne	6,000 s.f.	62 ft.
★	730 Ashbourne	6,329 s.f.	66 ft.
	731 Ashbourne	6,000 s.f.	60 ft.
	732 Ashbourne	6,204 s.f.	64 ft.
	733 Ashbourne	6,200 s.f.	62 ft.
★	<b>734 Ashbourne</b>	<b>6,211 s.f.</b>	<b>66 ft.</b>

Property Address	Square Footage of Lot	Lot Widths
735 Ashbourne	6,466 s.f.	65 ft.
737 Ashbourne	11,558 s.f.	---
1318 Flicker	7,500 s.f.	77 ft.
1324 Flicker	6,191 s.f.	62 ft.
1329 Flicker	6,208 s.f.	64 ft.
1330 Flicker	6,192 s.f.	62 ft.
1335 Flicker	6,208 s.f.	64 ft.
1336 Flicker	6,193 s.f.	62 ft.
1341 Flicker	6,208 s.f.	64 ft.
1342 Flicker	6,194 s.f.	62 ft.
<b>Average</b>	<b>6,600 s.f.</b>	<b>65 ft.</b>

★ Indicates corner lots

**Architecture:** The proposed addition will match the stucco material that exists on three sides of the home (excluding the front). The addition will also match the existing composition roof material.

The following Guidelines from the Single-Family Design Techniques were considered in the analysis of the project architecture:

Design Policy or Guideline (Architecture)	Comments
<i>2.2 Basic Design Principles Respect the scale, bulk, and character of homes in the adjacent neighborhood.</i>	The addition would occur in the rear and reducible front yards of the existing single-story house. The addition generally respects the existing scale, bulk, and character of the house as seen from the surrounding neighborhood.
<i>3.1 Design Techniques Design homes to respect their immediate neighbors.</i>	
<i>3.1(D) Design Techniques Where significant additions to existing homes are planned, it is generally better to place those additions at the rear of the house or at the side.</i>	The proposed addition is not significant in terms of new square footage versus existing square footage.

**Parking/Circulation:** As required by Sunnyvale Municipal Code, the site provides a two-car garage and two uncovered parking spaces in the driveway.

**Compliance with Development Standards/Guidelines:** The site currently meets all standard requirements for the R-0 Zoning District. The requested

Variance would allow an exception to the reducible front yard setback (six feet where nine feet is required).

**Expected Impact on the Surroundings:** The proposed addition would have a minimal impact to the surrounding neighborhood. If the Variance is approved, a precedent would be set and there could be an increase in Variance requests in the neighborhood, although staff does not believe this scenario would come to fruition. The cumulative effect of structures located closer to the street could have a negative impact on the streetscape and reduce visual open space in the area.

### Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> <li>Published in the <i>Sun</i> newspaper</li> <li>Posted on the site</li> <li>38 notices mailed to adjacent property owners and residents of the project site</li> </ul>	<ul style="list-style-type: none"> <li>Posted on the City of Sunnyvale's Website</li> <li>Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>Posted on the City's official notice bulletin board</li> <li>City of Sunnyvale's Website</li> </ul>

**Administrative Hearing:** On March 2, 2006, the Administrative Hearing Officer considered the Variance application and denied the request. After presentations by staff and the applicant, the Hearing Officer stated that not all three of the findings, as required, could be made and that granting the Variance would constitute a special privilege not enjoyed by surrounding property owners. (See Attachment F for Administrative Hearing Minutes). The applicant appealed this decision on March 8, 2006.

**Planning Commission Hearing (April 10<sup>th</sup>):** This application was heard before the Planning Commission at the April 10, 2006 meeting. At that time the Commission continued the item to the April 24<sup>th</sup> meeting so that staff could research the following two issues: 1) the residence has a unique circumstance since it has been raised out of a flood zone, and 2) the sewer connection to the home requires the addition to be located on the side of the residence. The specific issues discussed at the hearing are discussed below:

### Flood Zone Information

A majority of the homes in the Ashbourne and Flicker Way neighborhood are in the AO flood zone (depths of one to three feet). The subject home was raised out of the flood zone when it was constructed by raising the grade elevation of the parcel. The parcel was raised by approximately three to four feet. Since that

time the property owner applied and received approval to have the residence removed from the AO flood zone.

The grade difference in the site has little effect on construction techniques and costs required to build the addition. If the addition is placed in the rear of the existing structure, then no grade change is required. If the addition is placed on the side (as proposed by the applicant) the elevated grade will be required to be extended a short distance towards the street in order to create a level area for the addition.

### Sewer Connection

The existing sewer lateral is connected into the City main line on the Ashbourne side of the residence. All sewer lines are required under the Uniform Plumbing Code to maintain certain gradients (1/8" over 1', rise over run) leading down towards the street away from the house. Typically the existing sewer lateral exceeds the minimum gradient requirements, making a tie-in to the existing line possible. In these cases, the tie-in occurs under the floor of the home and within the existing foundation framework.

In less common circumstances the existing sewer lateral cannot be extended to accommodate a new drain and a sewer line is required to be connected into the lateral closer to the street. In these cases, a second lateral must be trenched underneath the foundation of the home before it can be tied into the existing line leading to the City sewer.

When a second lateral is required to be trenched under the foundation, it becomes more expensive than a standard connection within the foundation walls. Although there is an added cost for this type of project, it is not an uncommon situation for a homeowner in Sunnyvale.

**Planning Commission Hearing (April 24<sup>th</sup>):** This application was heard again before the Planning Commission at the April 24, 2006 meeting. At that time the Commission discussed the issue of the sewer connection as well as alternative configurations for the home addition. The Commission ultimately recommended to deny the appeal, stating that they were unable to make the required findings and that there are alternative designs for the addition that would not require a variance from setback requirements.

### Conclusion

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**Applicant's Justification:** The applicant has addressed the three required findings for a Variance in Attachment C – Applicant's Letter of Justification. The applicant contends the following:

- Other similar corner lots in the neighborhood have had similar six-foot side yard setback Variances approved.
- The proposed addition would not be detrimental to the public welfare since the addition is not in the vision triangle and the exterior architecture will remain the same.
- Granting the Variance would not grant a special privilege to the applicant, which would not also be enjoyed by the neighbors.

The applicant has also stated the following reasons for granting of the variance:

- Other parcels in the neighborhood are not raised out of the flood zone; therefore this parcel has a unique circumstance relative to other properties in the vicinity.
- The proposed addition to accommodate an accessible bathroom would require a more expensive sewer line connection that would be a hardship to the property owner.

**Discussion:** Staff cannot make the first finding regarding exceptional or extraordinary circumstances or conditions that apply to this property due to the parcel's size, shape, use, topography, location, or surroundings. The average parcel size in the surrounding neighborhood is 6,600 square feet, while the subject parcel is 6,211 square feet. Both measures are consistent with SMC standards for the R-0 Zone which specifies 6,000 square feet minimum parcel sizes. The average parcel width is 65 feet in the neighborhood and the subject parcel is 66 feet wide. SMC requires at least 62 feet for corner lots in the R-0 Zone. The site is rectangular and has no topographical features. Therefore, the parcel's shape, size, or topography does not deprive the property owner of a privilege enjoyed by similar property owners.

In addition, staff does not find that there are any physical hardships on this property that would allow this finding to be made. This includes the grade change, which is a common situation in Sunnyvale. Staff also does not find the sewer lateral issue to be a unique circumstance or condition that applies only to this property, since it is not an uncommon situation, although it does create a more expensive project for the applicant.

Staff is able to make the second Variance finding that granting the application will not be materially detrimental to the public welfare. Staff believes the addition will not negatively impact the neighborhood in any measurable sense.

Staff cannot make the third finding that granting the Variance will not grant a special privilege not enjoyed by other surrounding property owners. Approving this request would allow a significant majority of the homes in the neighborhood to make the same findings for reducing the front yard setback, due to similar parcel sizes, lot width, and siting of homes.



There are some residences in the area that do not conform to current SMC setbacks. Most of these nonconforming setbacks were created when the homes were initially constructed in the early 1960's. The applicant refers to several of these in their letter of justification and photos, but these non-conforming setbacks are a part of the original building permit in accordance with the Municipal Code at that time. The following table shows all Variance applications submitted to the City in the neighborhood. All of the following were approved.

Property Address	Date	Variance Description
721 Ashbourne	1/13/2003	Encroachment of single-story addition into 40-foot vision triangle.
666 Ashbourne	6/16/1982	Exceed allowable lot coverage
717 Ashbourne	9/1/1973	Interior Side yard setback (5' second story where 7' was required)
1342 Flicker	7/16/1980	Side yard setback
1390 Flicker	1/13/1975	Exceed allowable lot coverage 39% where 35% was max allowed)

**Findings:** Staff is recommending denial for this application because the Findings (Attachment A) were not made. However, if the City Council is able to make the required findings, staff is recommending the Conditions of Approval (Attachment B) for the project be attached to the approval.

### **Alternatives**

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1. Deny the appeal and uphold the decision to deny the Variance.
2. Grant the appeal and approve the Variance with attached conditions.
3. Grant the appeal and approve the Variance with modified conditions.

## **Recommendation**

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Recommend Alternative 1.

Reviewed by:

Trudi Ryan, Planning Officer

Reviewed by:

Robert Paternoster  
Director of Community Development Department

Prepared by: Steve Lynch, Project Planner

Approved by:

Amy Chan  
City Manager

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Applicant Letter of Justification
- D. Assessor Parcel Map
- E. Site and Architectural Plans
- F. Draft Administrative Hearing meeting minutes from March 2, 2006
- G. Planning Commission meeting minutes from April 10, 2006
- H. Planning Commission meeting minutes from April 24, 2006
- I. Additional information submitted by the applicant.

### **Recommended Findings - Variance**

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1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.

Staff is not able to make this finding because the site meets all lot dimensional standards for the R-0 Zoning district. The parcel is a standard shape and has no distinguishing topographical features.

The applicant has not demonstrated that extraordinary circumstances apply to this site or that the use would deprive him of a privilege enjoyed by others. Staff was not able to make this finding based upon the above discussion about the parcel configuration. Therefore, staff does not find that the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity and within the same zoning district.

Staff is able to make this finding because approving this request would not be detrimental to the neighborhood.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

Staff is not able to make this finding because approving this request would grant a setback not enjoyed by other properties in the vicinity and may also allow a significant majority of the homes in the neighborhood to make the same findings for expansion of the home, due to similar parcel sizes, garage sizes, home sizes, and siting of homes.

**Recommended Conditions of Approval if the Variance is Granted.**

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In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

**1. GENERAL CONDITIONS**

- A. The Variance shall be null and void two years from the date of approval by the final review authority if the approval is not exercised.
- B. Project shall be in conformance with the plans approved at the public hearing. Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.
- C. The Conditions of Approval shall be reproduced on the cover page of the plans submitted for a Building permit for this project.
- D. Obtain building permits for the proposed plan.

**2. DESIGN/EXTERIOR COLORS AND MATERIALS**

- A. Final exterior building materials and color scheme are subject to review and approval by the Director of Community Development prior to issuance of a building permit.
- B. Roof material shall match the existing home or if replaced entirely, be 50-year dimensional composition shingle or equivalent warranty material providing texture and shadow effect, or as approved by the Director of Community Development.

**VARIANCE JUSTIFICATIONS**

Justifications must be submitted by the applicant with all Variance applications. Use this sheet or a separate sheet of paper to complete all of the three statements below.

In granting a Variance, all of the following justifications must be made by the Planning Commission or the Administrative Hearing Officer:

19.84.050. Findings.

(a) A Variance from the requirements of this title, except for the height of a ground sign, shall be approved only upon a showing by the applicant that:

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

The property is a corner lot on Ashbourne and Flicker and the accompanying photos will show that other property owners on this street have completed remodels that also reveal a 6 foot side yard setback. Granting this variance would allow the home owners to enjoy the same privilege of expansion as their neighbors, allowing the same overall square footage consistent with the neighborhood.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

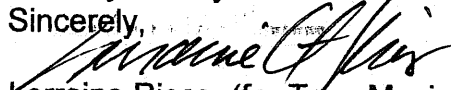
Granting this variance would not be detrimental to the public welfare or property since the vision triangle for traffic is maintained and the exterior look of the addition will match the existing house and the general ranch look of the existing neighborhood. This does not inhibit the use or enjoyment of any home in the immediately zoned area.

3. Upon granting of the Variance the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

We do not believe there are any special privileges being granted, but instead the home owners enjoyment and use of the property will be brought up to par with their neighbors.

Thank you for your time and consideration in this matter.

Sincerely,



Lorraine Riess (for Tony Maciejowski and Lorraine Guerrero, owners)

Professional, AIBD

**If you need assistance in answering any of these justifications, contact the Planning Division staff at the One Stop Permit Center.**

734 Ashbourne Drive  
Sunnyvale, CA 94087  
March 8, 2006

Planning Commission  
Dept. of Community Development  
456 West Olive Ave.  
Sunnyvale, CA 94088

To whom it may concern,

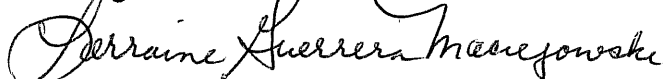
We are requesting a variance from Sunnyvale Municipal code section 19.34.040 to allow a six-foot set back where nine feet is required from the property line on a corner lot. The addition would have a setback of 17 feet from the face of the curb instead of 20 feet.

Some of the corner lots in the neighborhood do not meet the current set back requirements and this request for a variance would match the set backs of other corner lots in the neighborhood. Granting a variance would not set a precedence for a majority of homes. Therefore, the cumulative effect of structures closer to the street would not have a *negative impact on the streetscape and would not reduce the visual open space in the area.*

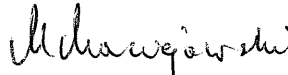
In addition, the exceptional topography of the parcel is causing a hardship in designing the placement of the sewer line for our new bathroom. The elevation of the home on the Flicker Way side of the parcel is approximately 4 feet higher than the street. This situation is depriving us of a privilege enjoyed by similar property owners, since surrounding parcels are at street level and 734 Ashbourne/Flicker is not.

The Sunnyvale planning staff has noted in the documents prepared at the administrative hearing that the proposed addition would have a minimal impact to the surrounding neighborhood. It was stated at the meeting that the design of the addition was done very well to blend in and complement the existing home. Therefore, we are asking that the variance be granted.

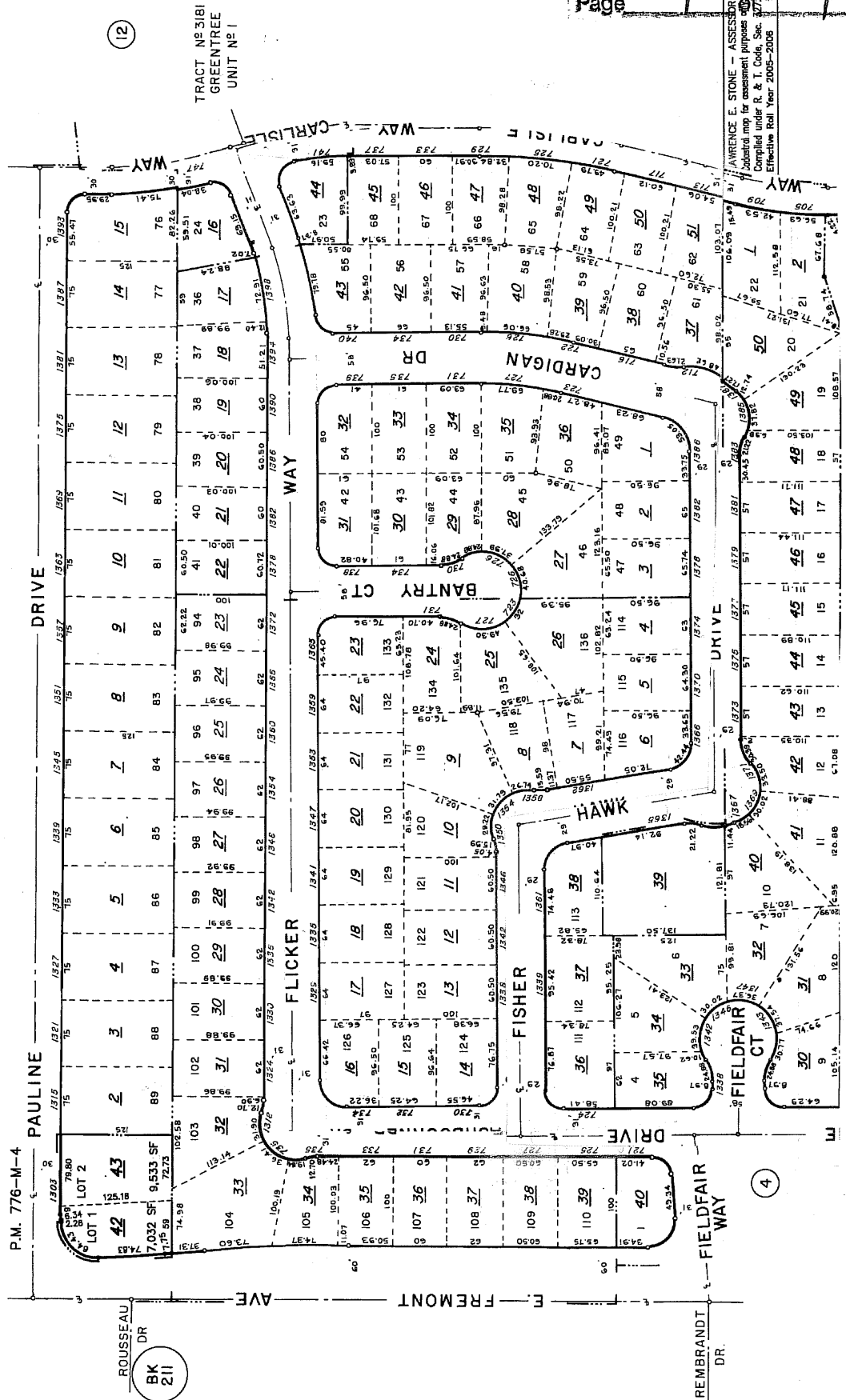
Best Regards

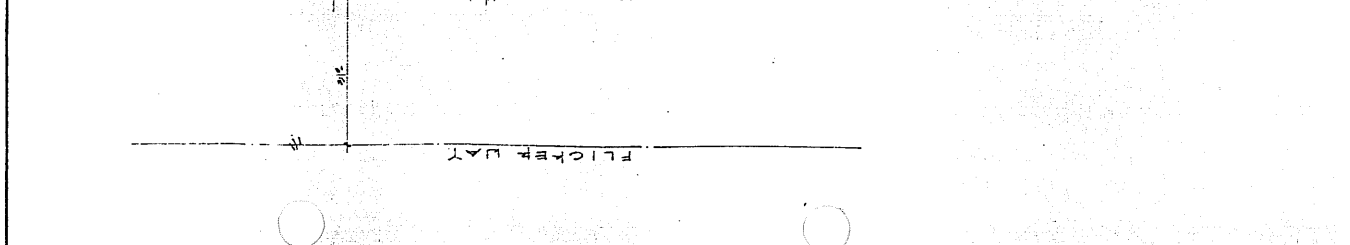


Lorraine Guerrera Maciejowski



M.A. Maciejowski

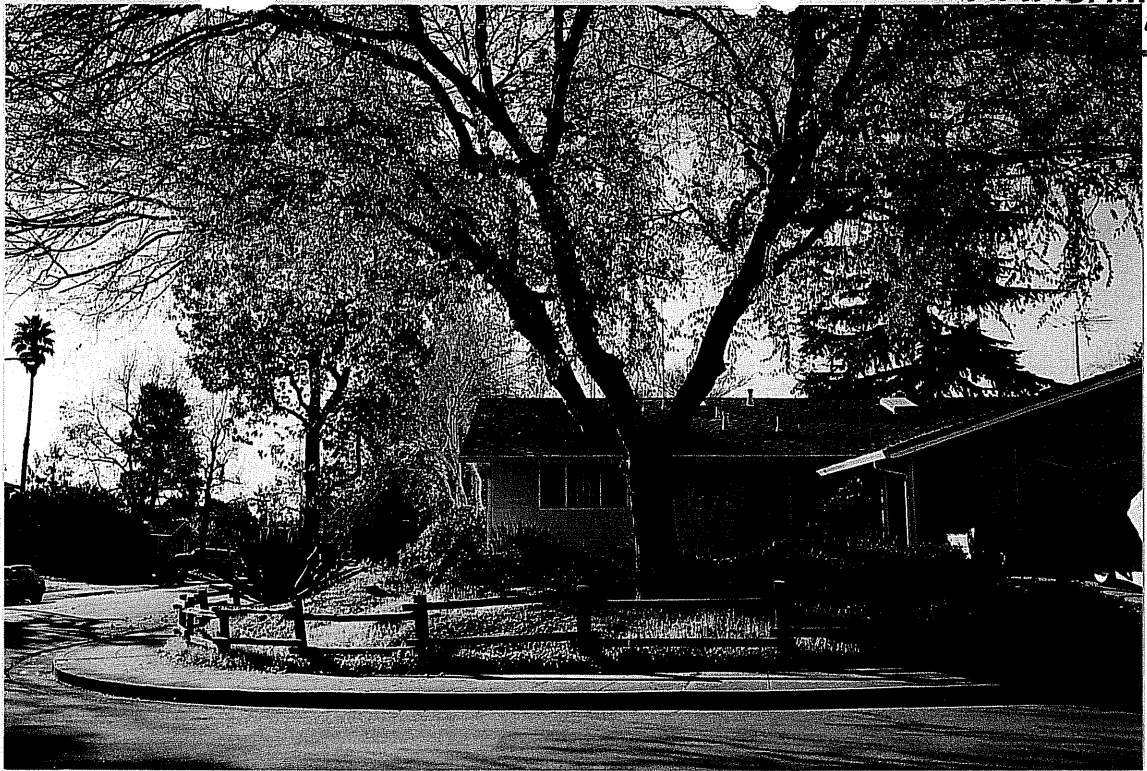




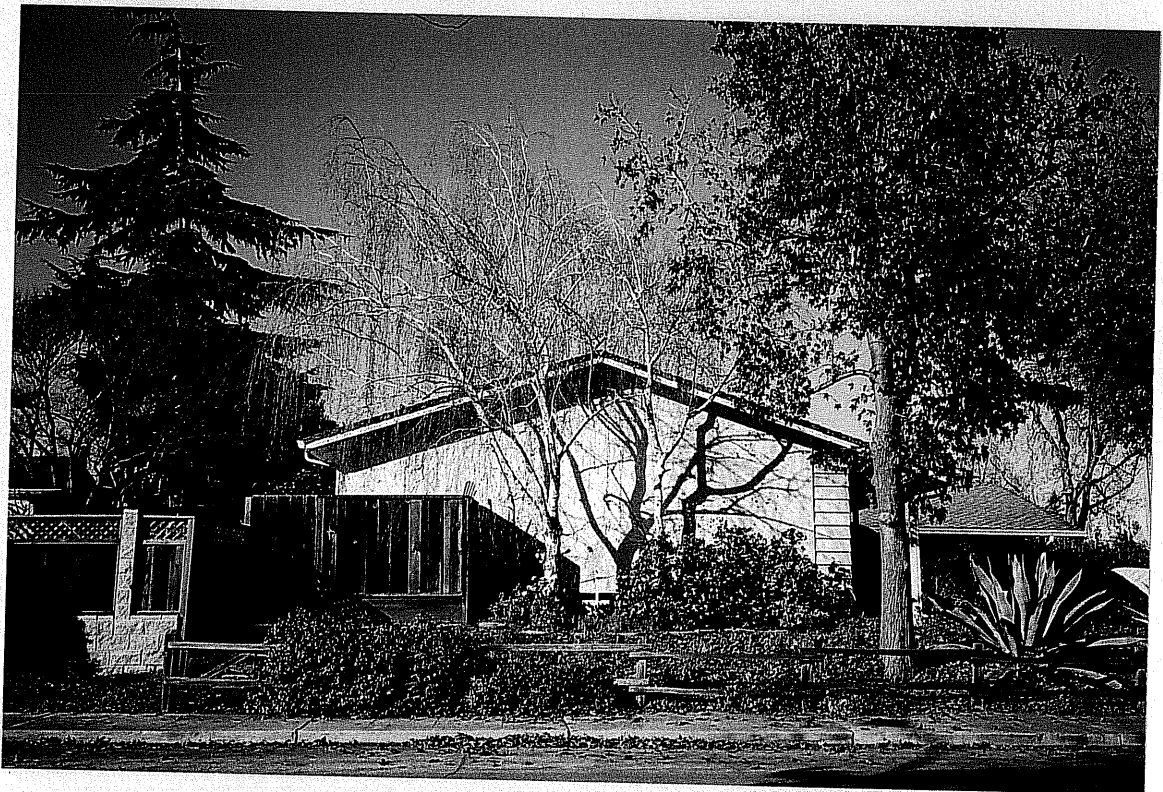








FRONT VIEW



SIDE VIEW (FLICKER WAY)

